

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

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Court File No: 13-cv-0166

Environmental Graphics, LLC,

Plaintiff,

v.

**COMPLAINT AND JURY DEMAND**

Medical Murals, LLC,

Defendant.

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Environmental Graphics, LLC (“Environmental Graphics”) for its Complaint against Defendant Medical Murals, LLC (“Medical Murals”) states and alleges as follows:

**THE PARTIES**

1. Environmental Graphics is a Minnesota limited liability company having a principal place of business at 717 Fifth Street South, Hopkins, Minnesota 55343.

Environmental Graphics has been producing scenic wall murals for over 35 years for a wide variety of residential and commercial applications. Environmental Graphics distributes its murals across the country and has had its products featured on numerous design and home improvement television shows. Environmental graphics promotes its products through various channels and websites including the websites with home-pages located at [www.environmentalgraphics.com](http://www.environmentalgraphics.com) and [www.muralsyourway.com](http://www.muralsyourway.com).

2. On information and belief, Medical Murals, LLC is a Florida Limited Liability Company with its principal place of business located at 701 Hupa Court, Lake



Mary, Florida 32746. On information and belief, Ron Holcomb is the President of Medical Murals, LLC.

### **JURISDICTION AND VENUE**

3. This is an action for a declaratory judgment under 28 U.S.C. § 2202, damages under 17 U.S.C. § 512(f), and tortious interference with contract under Minnesota common law.

4. The Court has jurisdiction under 28 U.S.C. §§ 1338 and 1367. Venue is proper under 28 U.S.C. § 1391(b)(2).

5. On information and belief, the Court has personal jurisdiction over Medical Murals because it conducts business in the State of Minnesota and it has taken actions in Minnesota that are intended to harm Environmental Graphics in Minnesota.

### **MEDICAL MURALS' ALLEGATIONS**

6. On January 16, 2013, Medical Murals contacted Environmental Graphics alleging that use of the Internet URL: <http://www.muralsyourway.com/business/medical-murals/> infringes Medical Murals' "copyright" and trademark. A true and correct copy of this communication appears below.



From: <[ron@medicalmurals.com](mailto:ron@medicalmurals.com)>  
Date: Wed, Jan 16, 2013 at 4:21 PM  
Subject: Comment From EG Products  
To: [info@egproducts.com](mailto:info@egproducts.com)

Name: Ron Holcomb

Phone: [407 792-8916](tel:4077928916)

Email: [ron@medicalmurals.com](mailto:ron@medicalmurals.com) We contacted you folks in the past for a quote on a project. Since then you have added the title Medical Murals (our name) to your web page so that searches for us land on your web site. Take it down or I'll have my attorney file suit here in Florida. That name is copywrited and incorporated. REF: <http://www.muralsyourway.com/business/medical-murals/>

7. Environmental Graphics quickly responded to Medical Murals' concern, explaining that the term 'medical murals' simply described murals for the medical market, and that Environmental Graphics has been using the term in commerce for many years.

8. Medical Murals responded by threatening immediate legal action against Environmental Graphics and Environmental Graphics' internet service provider. A true and correct copy of this response appears below.



Ron Holcomb <ronholcomb@aol.com> Jan 17 (1 day ago)

to me, ron

Todd

I am in touch with your hosting company and have advised them that they too will be a named party in the lawsuit if our name is not removed immediately. What you did after we contacted you was extremely dirty and we will sue you here in Florida.

Remove our incorporated company name from your web site or explain your scheme to a jury. You are stealing our Google traffic exactly as you planned.

You have been noticed. Govern your actions accordingly.

Ron Holcomb

Sent from Ron's iPhone please excuse any typos or exclusions.

9. Additionally, on January 17, 2013, Medical Murals contacted Environmental Graphics' internet service provider, falsely alleging that Environmental Graphics misappropriated the Medical Murals' company name, and demanding that the internet service provider immediately take down Environmental Graphics' *entire website*. A true and correct copy of this communication appears below.



Dear Sir/Ms.

Reference: \_www.muralsyourway.com\_ (<http://www.muralsyourway.com>)

We contacted this firm a year or so ago to collaborate with them on a medical business project which did not materialize. Subsequent to learning about us, Muralsyourway stole our company name, Medical Murals, and put a couple of pages using our name on their web site. How devious of them. Their goal clearly was to steal our potential clients doing Google searches and the like.

<http://www.muralsyourway.com/business/medical-murals/>  
(<http://www.muralsyourway.com/business/medical-murals/>)

Our name is proprietary, incorporated, licensed, and protected. We have not yet calculated our losses from their tortuous interference with our business. Demand is hereby made of you to take their site down by suspending it immediately.

We have contacted our company attorney and have asked him to file suit in Florida for damages and losses. Your company will also be held liable for any damages from this day forward if you continue to assist their wrongful scheme and efforts.

Sincerely,  
Ron Holcomb  
President  
Medical Murals LLC  
cc: esquire

10. As a result of Medical Murals' wrongful actions, Environmental Graphics was forced to enlist the services of an attorney to persuade its internet service provider to continue hosting Environmental Graphics' website and to initiate this lawsuit to protect against Medical Murals' knowing and material misrepresentations of infringement.



11. Environmental Graphics denies that its use of the term ‘medical murals’ or the URL <http://www.muralsyourway.com/business/medical-murals/> infringes any valid trademark or copyright.

12. Environmental Graphics is aware of no occasion where a customer of Environmental Graphics or Medical Murals has been confused by Environmental Graphics’ use of the term ‘medical murals’ or the URL <http://www.muralsyourway.com/business/medical-murals/>.

13. The foregoing allegations are incorporated in the claims below.

**COUNT I**  
**Declaratory Judgment**

14. An actual case and controversy exists concerning Environmental Graphics’ use of the term ‘medical murals’ and the URL <http://www.muralsyourway.com/business/medical-murals/> in connection with its sale of scenic wall murals to medical facilities.

15. Medical Murals has alleged that Environmental Graphics use of the term ‘medical murals’ in connection with its sale of scenic wall murals to medical facilities infringes Medical Murals’ alleged trademark or copyright.

16. Environmental Graphics disputes that there is any infringement. Environmental Graphics has been using the term ‘medical murals’ in connection with its sale of scenic wall murals to medical facilities since at least 2004 without a single instance of confusion between Environmental Graphics and Medical Murals.



17. Environmental Graphics' use of the term 'medial murals' in its business since at least 2004 pre-dates Medical Murals' incorporation as a Florida LLC in 2008.

18. The term 'medical murals' is descriptive and generic; Medical Murals, therefore, has no protectable rights in the term.

19. The term "medical murals" is not copyrightable subject matter.

20. Medical Murals has alleged that Environmental Graphics use of the URL <http://www.muralsyourway.com/business/medical-murals/> in connection with its sale of scenic wall murals to medical facilities infringes Medical Murals' alleged trademark or copyright rights.

21. Environmental Graphics disputes that there is any infringement. Environmental Graphics has been using the URL <http://www.muralsyourway.com/business/medical-murals/> in connection with its sale of scenic wall murals to medical facilities since at least April 2011 without a single instance of confusion between Environmental Graphics and Medical Murals.

22. This Court has jurisdiction over the dispute and the claim is ripe for adjudication.

23. Accordingly, Environmental Graphics seeks a declaration of this Court that it is lawfully using the term 'medical murals' and the URL <http://www.muralsyourway.com/business/medical-murals/> in connection with its sale of scenic wall murals to medical facilities, and does not infringe Medical Murals' rights under federal or state law.



**COUNT II**  
**Violation of 17 U.S.C. § 512(f)**

24. Under 17 U.S.C. § 512(f) any person who knowingly materially misrepresents to an internet service provider that another's website material or activity is infringing shall be liable for any damages, including costs and attorneys' fees, incurred by the alleged infringer who is injured by such misrepresentation.

25. Through its correspondence with Environmental Graphics' internet service provider, Medical Murals' has violated 17 U.S.C § 512(f) to Environmental Graphics' detriment.

26. Environmental Graphics is entitled to damages, cost and fees as a result in an amount to be determined at trial.

**COUNT III:**  
**Tortious Interference**

27. Environmental Graphics possessed business advantages in the marketplace as a result of its contractual relationship with its internet service provider.

28. Upon information and belief, Medical Murals knew of Environmental Graphics' contractual relationship with its internet service provider.

29. Medical Murals' purposefully interfered with Environmental Graphics' contractual relationship with its internet service provider.

30. As a direct and proximate result of Medical Murals' unlawful conduct, Environmental Graphics has suffered damages in an amount to be proven at trial.

**JURY DEMAND**

31. Environmental Graphics demands a jury trial for all issues triable to a jury.



**WHEREFORE**, Environmental Graphics asks the Court to:

1. Declare that Environmental Graphics' use of the term 'medical murals' in connection with its sale of scenic wall murals to medical facilities does not and would not infringe any rights Medical Murals has under state or federal law;
2. Award Environmental Graphics damages;
3. Award Environmental Graphics costs and attorneys' fees incurred in this action; and
4. Grant any other relief the Court deems just and equitable.

Dated: January 18, 2013

s/ Lora M. Friedemann

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